

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 28, 2002

IN RE:

**APPROVAL OF THE AMENDMENTS TO THE
INTERCONNECTION AGREEMENT
NEGOTIATED BY BELL SOUTH
TELECOMMUNICATIONS, INC. AND XO
TENNESSEE, INC. PURSUANT TO SECTIONS 251
AND 252 OF THE TELECOMMUNICATIONS ACT
OF 1996**

DOCKET NO. 01-01094

ORDER APPROVING AMENDMENTS TO THE INTERCONNECTION AGREEMENT

The Petition for Approval of the Amendments to the Interconnection Agreement Negotiated Between BellSouth Telecommunications, Inc. and XO Tennessee, Inc. Pursuant to the Telecommunications Act of 1996 came before the Tennessee Regulatory Authority (the "Authority") at the February 5, 2002 Authority Conference. The Amendments were filed on December 10, 2001 and came before the Authority pursuant to 47 U.S.C. § 252.

The original Interconnection Agreement between these parties was filed on November 5, 1999 and was assigned Docket No. 98-00123.¹ The parties filed a modification to the Agreement on December 6, 1999. The Authority conditionally approved the Agreement as modified on March 28, 2000. On January 30, 2001, after reaching a settlement in a related federal court case and in response to a data request from the Authority, BellSouth Telecommunications, Inc. and XO Tennessee, Inc. filed an Amendment regarding the

¹ At that time, XO Tennessee, Inc. was known as NEXTLINK Tennessee, Inc.

conditional approval. The Amendment was also filed under Docket No. 98-00123, and the Authority approved the Amendment at the February 21, 2001 Authority Conference. The parties filed other Amendments to the Agreement on April 16, 2001. These filings were assigned to Docket No. 01-00336. The Authority approved the Amendments on June 26, 2001. The parties again filed an Amendment on June 1, 2001, which was assigned Docket No. 01-00477. At a regularly scheduled Authority Conference on August 7, 2001, a majority² of the Directors voted to take no action on the Amendment; therefore, by operation of § 252(e)(4) the Amendment was deemed approved on August 30, 2001. The parties filed the Amendments that are the subject of this Order on December 10, 2001.

Based upon the Petition, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously approved the Amendments and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The Amendments are in the public interest as they provide consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The Amendments are not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a

² Chairman Kyle did not vote with the majority. Instead, she voted in favor of approval.

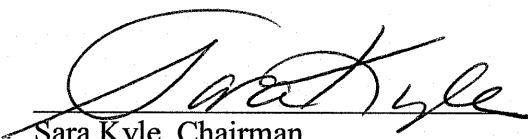
negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).² Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the Amendments are consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.³

5) No person or entity has sought to intervene in this docket.

6) The Amendments are reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The Amendments to the Interconnection Agreement negotiated between BellSouth Telecommunications, Inc. and XO Tennessee, Inc. are approved and are subject to the review of the Authority as provided herein.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:


K. David Waddell, Executive Secretary

² See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).

³ The Authority has issued a request to BellSouth Telecommunications, Inc. requesting that it provide to the Authority a detailed filing explaining any provisions of the interconnection agreement that differ from previous Authority decisions. BellSouth Telecommunications, Inc. has not responded to this request.